

REMARKS

By this Amendment, claims 1, 3-6 and 17-19 have been amended. No claims have been canceled or newly added. Therefore, claims 1-8 and 10-19 remain pending, with claims 10-14 withdrawn from further consideration. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

Claims 1-5, 7, 8 and 15-19 were rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over U.S. Patent No. 6,132,684 to Marino ("Marino") in view of U.S. Patent No. 4,124,122 to Emmitt ("Emmitt"). Claim 6 was rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Marino in view of Emmitt, and further in view of U.S. Patent No. 6,146,594 to De Graaff ("De Graaff"). Applicant respectfully traverses the rejections for the following reasons.

Applicant submits that Marino, Emmitt, and any proper combination thereof, does not disclose, teach or render obvious a device for manipulating and dispensing at least one filament that collect a small portion of a sample via contact with the sample, the device comprising, *inter alia*, at least one filament, wherein the at least one filament contains a first open end and a second open end disposed on opposite ends of the filament and connected by a hollow axial shaft; at least three plates each having a plurality of machined holes of a predetermined diameter arranged and configured to hold the at least one filament, wherein the at least three plates are configured to adjustably align to one another, and at least one of the at least three plates may be shifted in a horizontal direction with regard to the remaining plates to secure the at least one filament in the device, and wherein at least one of the three plates contains holes that have a chamfered surface at a top or bottom thereof; and a holding mechanism configured to orient and support the at least three plates, wherein said device is configured to manipulate the secured at least one filament to: establish contact by the secured at least one filament with samples of an analytical application by drawing samples into the secured at least one filament or adhering the samples to the secured at least one filament; position the secured at least one filament in or out of analytical instruments or fluid supplies; and dispense the secured at least one filament into a secondary holder or apparatus as recited in claim 1.

The Final Action asserted that the claimed "filament" was not being given patentable weight. [Final Action, page 4]. While Applicant respectfully disagrees with this position, claim 1 has been amended to positively recite a device comprising, *inter alia*, at least one filament. Thus, this claimed feature **must** be given patentable weight and considered by the Examiner.

Applicant respectfully submits that the Marino and Emmitt citations relied upon by the Examiner do very little in the way of rendering Applicant's pending claims unpatentable. In particular, Marino merely discloses a test tube holder that is capable of holding a plurality of test tubes and that can be moved onto a heating block. There is no recitation or reasoned basis, whatsoever, of manipulating and dispensing multiple filaments that collect a small portion of a sample via contact with the sample. Firstly, the test tubes of Marino, are **incapable of collecting** a small portion of a sample via **contact** with the sample, because test tubes are neither open ended on both sides, like capillary tube-type filaments, nor are they designed to have samples adhere to them, like optical fiber-type filaments.

That is, test tubes can only be used to store/hold previously-collected samples, but **not to collect a portion of a sample via contact with the sample**. Since, the bottom portion of the test tube is closed, even when the test tube is brought in contact with a sample, it is incapable of drawing/collecting the sample into the test tube. And, a test tube simply cannot be relied upon to have samples adhere to the bottom. In dramatic contrast, a filament is designed to either draw the sample through capillary action or have the sample adhere to it. Hence, Marino, fails to teach or render obvious the manipulating and dispensing of **at least one filament that collect a small portion of a sample via contact with the sample**, as required by Applicant's claim 1.

Moreover, Marino also fails to disclose the manipulation of at least one filament to establish contact with samples of an analytical application by drawing/adhering samples to the filaments or to position the at least one filament in or out of analytical instruments or fluid supplies. Marino, merely discloses the use of a test tube holder that holds a number of test tubes. There is no discussion or reasoned basis in Marino whatsoever, of the manipulation of test tubes to permit contact with samples of an analytical application to draw the samples or enable the samples to adhere. The test tubes in Marino are merely moved to a heating block – and there is **absolutely no mention** of positioning of test tubes into or out of analytical instruments or fluid supplies, such that samples can either be collected or dispensed. Hence, Applicant submits that Marino fails to teach or render obvious, the device being configured to

manipulate the secured at least one filament to: *establish contact by the secured at least one filament with samples of an analytical application* by drawing samples into the secured at least one filament or *adhering the samples* to the secured at least one filament; *position the secured at least one filament in or out of analytical instruments or fluid supplies*, as required by Applicant's claim 1.

Applicant submits that none of the remaining references, whether taken alone or in combination, are capable of curing the deficiencies noted above regarding Marino. For example, Emmitt is directed only to the use O-rings as part of a device for handling test tubes, and fails to remedy the deficiencies of Marino. Therefore, the combined teachings of Marino and Emmitt fail to teach or render obvious the claimed combination of elements recited by Applicant's amended claim 1.

Furthermore, De Graaff fails to remedy the deficiencies of the combined teachings of Marino and Emmitt because De Graaff merely teaches standardized well plate arrangements. Thus, the combined teachings of Marino, Emmitt and De Graaff fail to teach or render obvious the claimed combination of elements recited by Applicant's amended claim 1.

Accordingly, Applicant submits that claim 1 is clearly patentable. And, because claims 2-8 and 15-19 depend from claim 1, claims 2-8 and 15-19 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, immediate withdrawal of the prior art rejections of claims 1-8, and 15-19 is respectfully requested.

II. Conclusion.

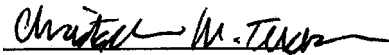
All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number **033975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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